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ATTORNEY FOR APPELLANT:

GEORGE A. LEININGER

Collins, Hensley & Wynn
Madison, Indiana

SHELLEY M. JOHNSON

**IN THE
COURT OF APPEALS OF INDIANA**

JEREMIAH MCCOY.

STATE OF INDIANA.

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No. 15A01-0804-CR-186

APPEAL FROM THE DEARBORN CIRCUIT COURT
The Honorable James D. Humphrey, Judge
Cause No. 15C01-0605-FB-18

December 8, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Jeremiah McCoy (“McCoy”) asks that we revise his maximum sentence for Burglary, as a Class B felony.¹ We affirm.

Facts and Procedural History

A safe containing a valuable coin collection was taken from a residence in Dearborn County. The State charged McCoy with Burglary, as a Class B felony, Conspiracy to Commit Burglary, as a Class B felony, and Receiving Stolen Property, as a Class D felony. Also, the State alleged that McCoy was a habitual offender. Pursuant to a plea agreement, McCoy admitted that he broke and entered the residence with the intent to commit theft therein. Amended Transcript at 12. McCoy pled guilty to Burglary, as a Class B felony. The State dismissed the other two counts and the habitual offender allegation, and agreed not to file charges based upon residential burglaries alleged to have occurred between February 9 and April 28, 2006. The parties agreed that the trial court could consider the probable cause affidavit in sentencing McCoy.

The trial court found McCoy’s “substantial juvenile and adult criminal history as a significant aggravating factor.” Appendix at 20. Meanwhile, the trial court found three mitigating factors to be of minimal weight: the fact that he was married and had children, his superficial apology to the victim, and his guilty plea. The trial court found the aggravating factor to “significantly outweigh” the mitigating factors, and sentenced McCoy to the maximum sentence of twenty years, to be fully executed.

¹ Ind. Code §§ 35-43-2-1(B)(i) and 35-41-2-4.

McCoy now appeals.

Discussion and Decision

Under Indiana Appellate Rule 7(B), this “Court may revise a sentence authorized by statute if, after due consideration of the trial court’s decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender.” Ind. Appellate Rule 7(B); see Ind. CONST. art. VII, § 6. In performing our review, we assess “the culpability of the defendant, the severity of the crime, the damage done to others, and myriad other factors that come to light in a given case.” Cardwell v. State, 895 N.E.2d 1219, ---- (Ind. 2008). This “introduces into appellate review an exercise of judgment that is unlike the usual appellate process, and is very similar to the trial court’s function.” Id. at ----. A defendant ““must persuade the appellate court that his or her sentence has met th[e] inappropriateness standard of review.”” Anglemyer v. State, 868 N.E.2d 482, 494 (Ind. 2007) (quoting Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006)), clarified on other grounds, 875 N.E.2d 218 (Ind. 2007).

As to the nature of the offense, the advisory sentence “is the starting point the Legislature has selected as an appropriate sentence for the crime committed.” Childress, 848 N.E.2d at 1081. For a Class B felony, the advisory sentence is ten years. Ind. Code § 35-50-2-5. The offense involved multiple people, multiple acts, and crossing a state line. Two men broke into the victims’ residence, left, and informed McCoy of the safe. McCoy rented a commercial dolly in Indiana and gave it to the men. The two men returned to the home and

took the safe and some jewelry. McCoy met the men in Ohio and opened the safe with a crow bar. The three men drove to a pawn shop in Ohio, where they sold the coins for \$6000. It is a reasonable inference that McCoy may have sold the coins in Ohio to frustrate the investigation. There is no evidence that any of the men carried a weapon. Neither of the victims was home at the time of the burglary. The coin collection was worth more than \$15,000 and held sentimental value as well, as one of the victims had been collecting the coins since his youth.

McCoy's extensive history of criminal conduct reflects poorly on his character.² He has at least six adult felony convictions, committed in three states, for burglary, felonious assault, and receiving stolen property, as well as at least two adult misdemeanor convictions. He was adjudicated a juvenile delinquent at least seven times for theft, grand theft, auto theft, burglary, intimidation, and disorderly conduct. His criminal history arises from conduct similar to the instant offense and reflects a pattern of unlawful behavior. In addition, he operated a motor vehicle without a license three or four times. He has been arrested every year since 1992, except for 1997, 1999, and 2003 to 2005, when he may have been incarcerated in Ohio.

Based upon our review of the offense and McCoy's character, we conclude that the maximum sentence is not inappropriate.

Affirmed.

² The Pre-Sentence Investigation Report in the Appendix should be printed on light green paper or have a light green coversheet attached to the document, marked "Not for Public Access" or "Confidential." See Ind. Appellate Rule 9(J), Ind. Administrative Rule 9(G)(1)(b)(viii), and Ind. Trial Rule 5(G).

MATHIAS, J., and BARNES, J., concur.